Supreme Court, U. S.
FILED
JAN 13 1979
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

NO 8 5551

HENRY ALBERT SMITH,

Petitioner

v.

JAMES C. WOODARD, et al.,

Respondents

RESPONDENT'S BRIEF

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IN THE

SUPREME COURT OF THE UNITED STATES

NO. 78-5551

HENRY ALBERT SMITH,

Petitioner

v.

JAMES C. WOODARD, et al.,

Respondents

RESPONSE TO PETITION FOR WRIT OF CERTIORARI
TO REVIEW A DECISION OF THE UNITED STATES
COURT OF APPEALS FOR THE FOURTH CIRCUIT

CITATIONS TO OPINION BELOW

The Opinions of the United States Court of Appeals for the Fourth Circuit and the United States District Court for the Eastern District of North Carolina are unreported. Both Opinions are attached to this Response at pp. 12-14.

JURISDICTION

Petitioner seeks to invoke the jurisdiction of this Court pursuant to 28 U.S.C. § 1343.

QUESTIONS PRESENTED

I. DOES THE DUE PROCESS CLAUSE OF THE UNITED STATES CONSTITUTION APPLY TO DECISIONS TO GRANT OR DENY PAROLE IN NORTH CAROLINA? IF SO, WHAT PROCEDURES ARE CONSTITUTIONALLY REQUIRED?

II. DID THE NORTH CAROLINA PAROLE COMMISSION ARBITRARILY DENY PAROLE TO SMITH BASED ON ERRONEOUS INFORMATION?

III. DOES THE COMMISSION'S CONSIDERATION OF A DETAINER FILED AGAINST SMITH BY OHIO AUTHORITIES VIOLATE SMITH'S CONSTITUTIONAL RIGHTS?

CONSTITUTIONAL PROVISIONS

Petitioner's allegations raise questions involving the Fourteenth Amendment of the Constitution of the United States.

STATEMENT OF THE CASE AND FACTS

Henry Albert Smith, a state court prisoner in the custody of the North Carolina Department of Correction, brought this Civil Rights Action against James C. Woodard, Chairman of the North Carolina Parole Commission and all other members of the Commission. The action was filed in the United States District Court for the Eastern District of North Carolina. Smith alleges that the Commission used vague and insufficient criteria to deny him parole. He also contends that the Commission relied on erroneous information in reaching its decision and that it denied him procedural due proces. Finally, he asserts that the Commission's consideration of a detainer filed against him by Ohio authorities constituted double jeopardy. The Defendants filed Motions to Dismiss and for Summary Judgment along with an Affidavit from James C. Woodard indicating the reasons for parole denial in this case.[1] The District Court found that the Parole Commission had not abused its discretion in reaching its decision and accordingly, it dismissed the complaint. The United States Court of Appeals for the Fourth Circuit affirmed "for the reasons stated by the District Court."[2]

Smith was convicted of assault with a deadly weapon inflicting serious bodily injury on May 30, 1975. He was sentenced to an 8 to 10 year term and began serving his sentence in the North Carolina Department of Correction immediately. He became eligible for parole under North Carolina law on May 30, 1977 when he

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1. See pp. 15-17

2. See pp. 12-14

had served one-fourth of his sentence.[3] Smith was first notified of the denial in a letter dated March 3, 1977 from Mary R. Logan, a Case Analyst for the Parole Commission.[4] The letter stated that the Commission "took into consideration your previous record, your assaultive nature and your custody grade." It also reminded Smith that since he was in close custody, he was ineligible for parole under the Commission's criteria. Finally, it stated that the Commission had noted "prior convictions of assault, burglary, and murder in the second degree." On March 17, 1977, Ms. Logan sent Smith another letter in which she acknowledged that the assault and second degree burglary charges against Smith had been dismissed.[5] Still, she noted that "because of the nature and circumstances of your crime, your custody grade and the fact that you have a detainer filed against you by Adult Probation Authorities, Columbus, Ohio; we do not feel that you deserve parole consideration at this time." Finally, she indicated to Smith that he might be paroled to his detainer filed in Ohio if he were promoted to medium custody.

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3. N.C.G.S. 148-58, the Statute that determines Smith's status, provided that "all prisoners shall be eligible to have their cases considered for parole when they have served a fourth of their sentence..." North Carolina's current Parole Eligibility Statute, N.C.G.S. 15A-1371 does not apply to persons sentenced before July 1, 1978. See North Carolina Session Laws 1977, c. 711 s. 39, which provides:

> "This Act shall become effective July 1, 1978 and applies to all matters addressed by its provisions without regard to when a Defendant's guilt was established or when judgment was entered against him except that the provisions of Article 85, 'parole' shall not apply to persons sentenced before July 1, 1978."

4. See pp. 18 , infra.

5. See pp. 19 , infra. This letter and the March 3, 1977 letter referred to in n.4 were attached to the Affidavit of James C. Woodard.

ARGUMENT

I. THE DUE PROCESS CLAUSE DOES NOT APPLY TO DECISIONS TO GRANT OR DENY PAROLE IN NORTH CAROLINA. IF IT DID, THE PROCEDURES EMPLOYED IN THIS CASE WOULD HAVE BEEN SUFFICIENT TO SATISFY THE REQUIREMENTS OF THE CLAUSE.

Smith claims that the North Carolina Parole Commission has denied him parole without due process. This Court has already agreed to consider a similar contention in Inmates of Nebraska Penal Complex v. Greenholtz, No. 78-201. N.C.G.S. 148-58, the Statute in effect at the time of Smith's sentence,[6] provides:

> All prisoners shall be eligible to have their cases considered for parole when they have served a fourth of their sentence, if their sentence is determinate, a fourth of their minimum sentence, if their sentence is indeterminate; provided that any prisoner serving sentence for life shall be eligible for such consideration when he has served 10 years of his sentence. Nothing in this Section shall be construed as making mandatory the release of any prisoner on parole, but shall be construed as only guaranteeing to every prisoner a review and consideration of his case on the merits.

We do not believe that this Statute creates any liberty or property interests that would entitle Smith to Due Process. It specifically provides that "nothing in this Section shall be construed as making mandatory the release of any prisoner." In G.S. 148-60, the North Carolina General Assembly added that "the time of releasing prisoners shall be discretionary." In Meachum v. Fano, 427 U.S. 215 (1974) and its companion case Montayne v. Haymes, 427 U.S. 237 (1974), this Court held that the Due Process Clause does not apply to a prisoner's transfer

> "absent some right or justifiable expectation rooted in state law that he will not be transferred except for misbehavior or upon the occurrence of other specified events." Montayne, supra at 242.

These decisions make it clear to us that for a right to be conferred, the Statute must limit the exercise of administrative discretion. See Lombardo v. Meachum, 548 F.2d 13, 16 (1st Cir. 1977); Four Certain Unnamed Inmates v. Hall, 550 F.2d 1291

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6. See n.1, supra

(1st Cir. 1977). Neither G.S. 148-58 nor G.S. 148-60 nor any other Statute provides standards which control the exercise of the Parole Commission's discretion.[7] The Statutes are general directives that do not confer any rights.

We concede that our analysis of this question has not been universally accepted. The Circuit Courts have analyzed a variety of Parole Eligibility Statutes in a variety of ways.[8] Some Courts agree with us that the Clause does not apply to parole proceedings. Other Circuits have held the Clause applicable, but express differing views on the question of procedures that must be employed in order to meet the requirements of the Clause. Some have held that a statement of reasons for the action taken is sufficient to comply with the Clause.[9] Two Circuits require formal hearings in which the inmate is allowed to appear and "rebut" information that might be adverse to him.[10]

Even if the Due Process Clause is determined to be applicable in this case, procedural requirements have been met.

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7. It is interesting to note that North Carolina's current Parole Eligibility Statutes, G.S. 15A-1371 et seq., also allow the Commission total discretion.

8. Brown v. Lundgren, 528 F.2d 1050 (5th Cir.) cert. den., 429 U.S. 917 (1976); Scott v. Kentucky Parole Board, No. 74-1899 (6th Cir.) vacated and remanded to consider mootness 429 U.S. 60 (1976).

9. See Franklin v. Shields, 569 F.2d 784, 800 (4th Cir. 1978)(en banc); U.S. ex rel. Johnson v. Chairman New York State Board of Paroles, 500 F.2d 925 (2nd Cir.) vacated as moot 419 U.S. 1015 (1974); U.S. ex rel. Richerson v. Wolff, 525 F.2d 797 (7th Cir.) cert. den. 425 U.S. 914 (1976).

10. See Childs v. U.S. Board of Parole, 511 F.2d 1270 (D.C.Cir. 1974); Inmates of Nebraska Penal and Correctional Complex v. Greenholtz, 576 F.2d 1274 (8th Cir.) cert. granted _____U.S._____, (October 2, 1978).

Smith claims that the Commission has based its decision on vague and insufficient criteria. Actually, the criteria are quite detailed and the investigative process is a thorough one.[11] Smith apparently complains that the criteria set out in the Regulations were not utilized in his case. A brief examination of the Regulations and Ms. Logan's letters however, demonstrate that the criteria were properly applied. The following portions of Regulations are applicable to this case:

(1) The prisoner's previous criminal history provides the Commission with "a means of anticipating the inmate's future behavior as required by G.S. 148-60." 5 NCAC 4C.1602.

(2) "The record of inmates who have been on probation or parole previously is studied carefully...The commission of a new crime while on probation or parole gives the Commission little hope that the inmate will obey the law and conditions of parole." 5 NCAC 4C.1610.

(3) "As a matter of policy the Parole Commission does not grant parole to inmates in close or maximum custody, unless they are being held at that level for their own protection... Normally an inmate in close or maximum custody is there because of conduct that would disqualify him for parole under G.S. 148-60 or because his record is such that he is deemed to be dangerous to others." 5 NCAC 4C.1612.

(4) "The Commission will not grant parole to inmates with charges pending against them The Commission will parole to detainers 'only' when the inmate owes time to another jurisdiction." 5 NCAC 4C.1613.[12]

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11. The Commission's procedures for investigating cases for parole have been codified and filed with the office of the North Carolina Attorney General in accordance with N.C.G.S. 143B-261.1. 81 pages of this Publication involve the Commission's review and investigation of parole cases. See 5 NCAC 4C and 5 NCAC 4D. These Regulations will be made available to the Court if requested.

12. 5 NCAC .1612 and 5 NCAC.1613 do not prevent Smith's parole to his Ohio detainer. As the Regulations indicate, the Commission does parole prisoners to serve time in other jurisdictions. Moreover, it is not necessary for the prisoner to be in minimum custody prior to parole to a detainer. See Ms. Logan's letter of March 17, 1977 at p. 19 infra. Promotion to medium custody entitles him to consideration for parole.

In Ms. Logan's letter of March 3, 1977 she informed Smith that parole was being denied due to "your previous criminal record, your assaultive nature and your custody grade." In her letter of March 17, 1977, she further informed Smith that "because of the nature and circumstances of your crime, your custody grade and the fact that you have a detainer," parole would be denied. It is clear that the Commission's staff properly utilized legitimate criteria to deny parole to Smith.

Smith also seems to contend that the statement of reasons given to him was too indefinite. We have made it clear however, that there were several definite reasons that were supplied to Smith. He appears to argue that the Commission cannot use his "close custody status" as a reason for parole denial. He apparently believes that parole officials have been responsible for keeping him in close custody and have used his assignment to deny him parole. The Commission however, does not place prisoners in close custody at all. That decision is made by correctional officials. In the Section of its Regulations where it indicates that assignments to close custody will preclude parole, the Commission notes that "normally an inmate is in close custody because of conduct that would disqualify him for parole under N.C.G.S. 148-60 or because his record is such that he is deemed to be dangerous to others." See 5 NCAC 4C .1612. Obviously, parole officials and correctional officials who have made decisions concerning Smith's status are concerned about these same factors. The factors include Smith's previous convictions of second degree murder and assault with a deadly weapon inflicting serious injury and the detainer filed by Ohio based on his violation of parole there. These factors were spelled out to Smith in a letter denying him parole. He is not entitled to a statement of reasons for the reasons. Cf. Fronczak v. Warden El Reno Reformatory, 553 F.2d 1219 (10th Cir. 1977).

It is true that Smith did not receive notice and a pretrial hearing or interview. There are legal and practical reasons for denying hearings in cases such as this one. First, even if the Due Process Clause does apply, the detailed statement of reasons for denial of Smith's parole would satisfy its requirements.

The Defendants are not obligated to hold a hearing in this case. Also, the Court should know that there are approximately 14,000 inmates confined to the North Carolina Department of Correction. The Parole Commission granted paroles to 6,678 inmates between January and November of 1978. It is impossible for the Commission's 5 Members to grant parole interviews to everyone that has served enough time to become eligible. Therefore, where it is obvious that an inmate will not qualify for parole, his case is not considered further. Where there is a possibility that an individual may be paroled, his case will be thoroughly investigated and usually, he will be interviewed.[13] We see no reason to delay parole to a prisoner who deserves it in order to hold hearings for those prisoners who cannot and should not be considered.[14]

It is our hope that the Court will take these practical considerations into account when it decides Inmates of Nebraska Penal Complex v. Greenholtz. We believe that the Court will adequately address the legal and practical problems involved in parole decision making in that case. For that additional reason, there is no need for the Court to review this case further.

II. THE COMMISSION DID NOT ARBITRARILY DENY PAROLE TO SMITH

Smith also claims that he has been denied parole based on erroneous information. The facts belie this contention. As Ms. Logan indicated in her letter of March 17, 1977, several months before Smith was eligible for parole, the Commission fully understood that the assault and burglary charges against Smith had been dismissed. Still, it decided to deny the application because of Smith's criminal history and his

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13. "It is Commission Policy to interview those inmates whose cases have been approved for investigation following a case review by an Analyst or a Member of the Commission." See 5 NCAC 4C.0403(a).

14. See 27 Vanderbilt L.J. 1257, 1276-7 (1974).

assaultiveness. It is obvious that these factors may be legitimately considered. The record shows no abuse of discretion and therefore, the Parole Commission's decision should not be disturbed. Dye v. U.S. Parole Commission, 558 F.2d 1376, 1378 (10th Cir. 1977); Scarpa v. United States Board of Parole, 477 F.2d 278 (5th Cir.) vacated and remanded for consideration of mootness 414 U.S. 809 (1973); U.S.Board of Parole v. Merhige, 487 F.2d 25 (4th Cir. 1973). No Court has limited a Parole Commission's discretionary authority to grant or deny paroles absent arbitrariness. This claim does not raise a substantial question.

III. THE COMMISSION COULD CONSIDER A DETAINER FILED AGAINST SMITH, AND OHIO WAS NOT REQUIRED TO WITHDRAW THAT DETAINER.

Smith's final contention involves the Parole Commission's consideration of detainers filed by Ohio against him for parole violation. The detainer was issued as a result of Smith's assault conviction in North Carolina. In his complaint, he sought an injunction barring the Commission from considering the detainer. Apparently, the District Court liberally construed the complaint as an attack on the validity of the detainer and a request that it be withdrawn. We do not believe that Smith can attack that detainer here. Ohio authorities are not parties to this suit. Even if they were, the United States District Court for the Eastern District of North Carolina has no jurisdiction over them. Therefore, the Court could not order them to hold a revocation hearing or withdraw their detainer. 4 Wright Miller, Federal Practice and Procedure § 1069, pp. 265-6 (West 1970). Assuming arguendo that Smith could properly challenge the detainer in this action, he is certainly entitled to no relief. It now appears settled that a person under parole supervision who commits a crime in another jurisdiction while on parole and is sentenced to prison in that other jurisdiction is not entitled to a prompt revocation hearing following the issuance of a parole violation warrant by the supervising jurisdiction.

Larsen v. McKenzie, 554 F.2d 131 (4th Cir. 1977), Cf. United States ex rel Caruso v. United States Board of Parole, 570 F.2d 1150 (3rd. Cir. 1978); United States ex rel Hahn v. Revis, 560 F.2d 264 (7th Cir. 1977); Hicks v. Board of Parole, 550 F.2d 401 (8th Cir. 1977). The loss that an inmate might suffer as the result of the detainer is considered speculative and remote. The prisoner has had his day in Court and it is extremely unlikely that he will suffer further prejudice. Therefore, unless the State Statute confers a right to a revocation hearing, no right exists. This Court has implied agreement with this proposition in Moody v. Daggett, 429 U.S. 78, 87 (1976). This does not appear to be an appropriate case for the Court to issue a more definite mandate. The jurisdictional problems that Smith faces cannot be overcome.

CONCLUSION

For all of these reasons, this Petition for Discretionary Review is without merit and should be denied.

Respectfully submitted,

RUFUS L. EDMISTEN
Attorney General

Ben G. Irons, II
Assistant Attorney General

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P. O. Box 629
Raleigh, North Carolina 27602

Telephone: (919) 733-7188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Response to Petition for Writ of Certiorari to Review a Decision of the Supreme Court of North Carolina has been mailed, Postage Prepaid, to the following: Mr. Henry Albert Smith, P. O. Box 217, Yanceyville, North Carolina 27379.

This the 10th day of January, 1979.

Ben G. Irons, II
Assistant Attorney General

FILED

JAN 5 1978

JOHN R. WHITTY, CLERK
U. S. DISTRICT COURT
E. DIST. NO. CAR.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF NORTH CAROLINA

RALEIGH DIVISION

NO. 77-315-CRT

HENRY ALBERT SMITH)
)
VERSUS) MEMORANDUM OPINION AND ORDER
)
JAMES C. WOODARD, etc.)

LARKINS, CHIEF DISTRICT JUDGE:

This case is before the Court on Defendant's MOTION FOR SUMMARY JUDGMENT. The Plaintiff alleges violations of his constitutional and civil rights have been committed by the Defendant, in that he was denied parole by the North Carolina Parole Commission, which the Defendant chairs; and also that the presence of a detainer filed by the State of Ohio with regard to his parole violation there constitutes double jeopardy.

With regard to the first contention of the Plaintiff, a review of the record in this case reveals no allegations or set of facts which constitute a violation of constitutional dimensions. There has been no abuse of discretion; this conclusion is supported by the realities of the prisoner's confinement status at the time he was considered for parole, and his prison record.

With regard to the plaintiff's seoond contention, the facts support the conclusion and finding that it has no merit. MOODY V DAGGETT, 429 U.S. 78 (1976); GADDY V MICHAEL, 519 F.2d 669 (1975, 4th Cir.).

NOW THEREFORE, in accordance with the foregoing, it is ORDERED that the Defendant's MOTION FOR SUMMARY JUDGMENT be, and the same is hereby GRANTED; and this case is hereby DISMISSED; and the Clerk is to serve copies of this ORDER upon the parties.

AT TRENTON, NORTH CAROLINA

JANUARY 4, 1978

JOHN D. LARKINS, JR.
CHIEF DISTRICT JUDGE

A True Copy, Teste:
John R. Whitty, Clerk
By R W Eson
Deputy Clerk

P-034-B

UNPUBLISHED

United States Court of Appeals

FOR THE FOURTH CIRCUIT

No. 78-8064

Henry Albert Smith,

Appellant,

v.

James C. Woodard and Members of the State of North Carolina Parole Commission,

Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. John D. Larkins, Jr., District Judge.

Submitted: August 17, 1978 Decided: September 11, 1978

Before WINTER, BUTZNER, and RUSSELL, Circuit Judges.

(Henry Albert Smith, Appellant Pro Se. Jacob L. Safron, Special Deputy Attorney General, for the Appellees.)

PER CURIAM:

A review of the record and of the district court's opinion discloses that an appeal from the order of the district court refusing habeas corpus relief would be without merit. Accordingly, although leave to proceed in forma pauperis is granted, a certificate of probable cause to appeal is denied and the appeal is dismissed for the reasons stated by the district court. Smith v. Woodard, C/A No. 77-315-CRT (E.D.N.C., Jan. 5, 1978).

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF NORTH CAROLINA

RALEIGH DIVISION

Civil 77-315-CRT

HENRY ALBERT SMITH Plaintiff v. JAMES C. WOODARD Defendant	AFFIDAVIT

I, James Woodard, first being sworn, depose and say:

That I am employed by the State of North Carolina as Chairman of the North Carolina Parole Commission. In my capacity as such I am responsible for and have direct access to the Parole records of every inmate in the State Prison System.

Inmate Henry Smith was convicted of assault with a deadly weapon inflicting serious bodily injury on May 30, 1975. He was sentenced to an eight to ten year term by Judge Lee of the Wake County Superior Court. His first parole eligibility date under this sentence was May 29, 1977.

The Parole Commission began to review Inmate Smith's case during February of 1977. On March 3, 1977 Case Analyst Mary Logan informed Inmate Smith of the Parole Commission's decision to deny parole. Miss Logan's letter also set forth the reasons for the denial. A copy of Miss Logan's letter, dated March 3, 1977, is attached hereto and incorporated by reference.

The general policy of the Parole Commission is to parole only those inmates in minimum custody. By achieving minimum custody, an inmate demonstrates a willingness and ability to handle additional freedoms and responsibilities. He demonstrates a respect for prison rules, fellow prisoners and prison officials. The paramount reason for Inmate Smith's parole denial at his last review was the fact that he was in close custody. Close custody is the second most serious custody level in the State Prison System. As the notification letter states "You are in Close Custody, therefore, making you ineligible for parole consideration on your parole eligibility date May 29, 1977."

While Inmate Smith's custody status, standing alone, was sufficient reason for parole denial, the Parole Commission found other negative factors in his case. The fact that this was Inmate Smith's first parole review and that he had therefore served only two years of an eight to ten year sentence, coupled with the Close Custody grade, led the Commission to conclude that his continued correctional treatment would substantially enhance his capacity to lead a law abiding life when released from prison at a later date.

Inmate Smith's prior criminal record and assaultive nature were viewed as negative factors in that these factors made it difficult for the Parole Commission to conclude that, at that time, there was a reasonable probability that he would live and remain in liberty without violating the law if released. Inmate Smith's assaultive nature is evidenced by the crime for which he is currently in prison. Inmate Smith was convicted of assault with a deadly weapon inflicting serious bodily injury after being found guilty of inflicting knife wounds on his girl friend. He has also been convicted of second degree murder in Ohio in 1963.

The March 3, 1977 letter from Miss Logan did state that Inmate Smith had prior convictions for assault and burglary. By letter of March 7, 1977 Inmate Smith questioned the assault and burglary conviction. On March 17, 1977 Miss Logan clarified these issues by return letter notifying Inmate Smith that our records reflected that he had been charged with assault and second degree burglary in 1953 while living in New York but that the indictment was subsequently dismissed. A copy of Miss Logan's letter is attached hereto and incorporated by reference.

Even if Inmate Smith had a perfectly clean record, the Parole Commission's decision would not have been affected in the

slightest. As stated earlier, Inmate Smith's custody grade precluded him from parole.

The detainer filed by the Adult Probation Authorities of Ohio is not being viewed against Inmate Smith. As set forth in Miss Logan's letter of March 17, 1977, the Parole Commission may parole Inmate Smith to this detainer when he reaches medium custody. There is therefore a possibility that parole to the detainer will be granted earlier than parole to the free society. In any event, Inmate Smith is scheduled for another review in February, 1978.

This the 23 day of November, 1977.

James C Woodall
Affiant

Sworn to and subscribed before me
this the 23rd day of November, 1977.

Esta E. Allen
Notary Public

My Commission Expires: My Commission Expires December 5, 1979

March 3, 1977

Mr. Henry Albert Smith, 20128-92, MRL
Central 3100

Dear Mr. Smith:

The Parole Commission has carefully considered your case and concluded that parole should not be granted at this time. The Commission, in reaching its decision, took into consideration your previous criminal record, your assaultive nature and your custody grade.

Our records indicate that you have prior convictions of Assault, Burglary and Murder In The Second Degree. You are in Close Custody, therefore, making you ineligible for parole considerati n on your parole eligibility date May 29, 1977.

Because of your previous criminal involvement and your assaultive nature the Commission was unable to conclude that there is reasonable probability that you will live and remain in liberty without violating the law if paroled at this time. Because you are not now a Honor Grade, the Commission fells that further consideration of your case should be deferred until you have been promoted to that custody level and demonstrated your willingness and ability to handle the additional freedoms and responsibilities of that custody level. The Commission is of the opinion that your continued correctional treatment will substantially enhance your capacity to lead a law-abiding life when released at a later date.

Your file will be reviewed again on February 25,1978.

Sincerely,

Mary R. Logan
Case Analyst

MRL/bw
cc: Unit Superintendent

March 17, 1977

Mr. Henry Albert Smith, 20128-92, MRL
Central 3100

Dear Mr. Smith:

According to our FBI Record, you were charged with Assault and Second Degree Burglary during 1952 while living in Niagara Falls, New York. You were held for trial and indictment was dismissed.

Because of the nature and circumstances of your crime, your custody grade and the fact that you have a detainer filed against you by the Adult Probation Authorities, Columbus, Ohio; we do not feel that you deserve parole consideration at this time. Since you are wanted on a life sentence with the Columbus, Ohio authorities; there is a possibility that the Commission will review your file and consider you for parole to this detainer on your next scheduled review February 25, 1978.

Just as soon as you have been promoted to Medium Custody, please advise this office and we will take your case to the Commission in order to determine whether they want to parole you to this detainer.

Sincerely,

Mary R. Logan
Case Analyst

MRL/bw